

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 13412.2003CIP	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>Sept. 17, 2007</u> Signature <u>Alex Grant</u> Typed or printed name <u>Alex Grant</u>		Application Number 10,749,447 Filed December 31, 2003 First Named Inventor Arnold Anderegg Art Unit 3751 Examiner Charles E. Phillips	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>37,007</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		Signature <u>Janet Sleath</u> Typed or printed name Janet Sleath 206.382.1191 Telephone number September 17, 2007 Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted herewith via facsimile transmission to Telephone No. (571) 273-8300 on the date indicated below and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

Date of Transmission: September 17, 2007


Alex Grant

RECEIVED
CENTRAL FAX CENTER
SEP 17 2007

Attorney Docket No. 13412.2003CIP
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of **Arnold ANDEREGG**

Group Art Unit: 3751

Application No. : 10/749,447
Filed : December 31, 2003
For : **SHOWERING DEVICE FOR THE INTIMATE REGION**
Examiner : Charles E. Phillips

ATTACHMENT TO PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP: APPEAL
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Following issuance of a final Office Action on April 16, 2007, review of the final rejections prior to filing an Appeal Brief is respectfully requested for the following reasons. Claims 11-25 are pending in the application, with claims 14 and 19 being in independent format.

Claims 12, 14, 15, 17 and 18 stand finally rejected under 35 USC §103(a) as being unpatentable over Silver (US Patent 4,287,618), in view of Schramm (DE 29800816).

Independent claim 14 is drawn to a showering device comprising: (a) a housing in the form of a hand-grip having an inlet side and an outlet side; (b) a shut-off valve located in proximity to the inlet side of the housing; (c) a housing closure located on the outlet side of the housing; and (d) an insertion rinsing tube having an inlet side and an outlet side, wherein the insertion rinsing tube passes through the housing closure and is held in a bore in the housing, and

Serial no. 10/749,447

Attachment to Pre-Appeal Brief Request for Review

wherein the inlet side of the insertion rinsing tube and the outlet side of the insertion rinsing tube enclose an angle of about 90°.

The Examiner states that Silver teaches a device with a handgrip housing 52 including a closure that accepts an insertion tube that has a 90 degree bend. He also states that Silver *appears* to show a valve handle at the inlet end of his handgrip, and that a valve is shown at 30 near the inlet end of structure 26. Schramm is cited by the Examiner as illustrating the use of a removable tube.

As clearly stated at col. 3, lines 1-4, Silver discloses a "hand held bidet 52 having a spray fitting with an aerator 54, adapted to engage a douche/enema attachment 56." Applicant respectfully submits that the douche/enema attachment 56, and not the spray fitting plus aerator 54, corresponds to the claimed insertion rinsing tube. As can be seen in Fig. 1, attachment 56 is straight and does not have an angle of about 90° as recited in independent claim 14. Furthermore, attachment 56 is not held in a bore in the housing. Indeed, in Fig. 4 of Silver, attachment 56 is clearly shown as having a thread by which it may be screwed onto aerator 54.

As taught at col. 2, lines 46-48, Fig. 3 of Silver illustrates a control unit 26 comprising "a side outlet diverter valve 28, a low control throttle valve 30, and a bottom outlet diverter valve 32." Hand held bidet 52 is connected to the side outlet diverter valve 28 by a flexible armored hose 36 (col. 3, lines 1-3). Due to the presence of control unit 26, there is no need for another shut-off valve on hand held bidet 52, and it is thus unclear whether the "valve" illustrated as being present on hand held bidet 52 in Fig. 1 does indeed function as a shut-off valve or aids in connecting hose 36 and/or feed unit 58 to hand held bidet 52.

Applicant thus submits that neither Silver nor Schramm teach or suggest either (a) an insertion rinsing tube including an angle of about 90° that passes through a housing closure and is held in a bore in the housing, or (b) a shut-off valve located on the housing in proximity to the inlet side of the housing as recited in independent claim 14.

Claim 16 stands finally rejected under 35 USC §103(a) as being unpatentable over Silver (US Patent 4,287,618), in view of Schramm (DE 29800816) as applied to claim 14, and further in view of US Patent 5,056,562 to Pawelsik et al. The Examiner asserts that Pawelsik et al. teach the use of chromium plated metal in a water faucet environment. However Pawelsik et al. do not overcome the deficiencies of Silver and Schramm discussed above.

Serial no. 10/749,447

Attachment to Pre-Appeal Brief Request for Review

It is urged that neither Silver, Schramm nor Pawelsik et al., taken either singly or in combination, teach or suggest the subject matter of pending claims 12, 14 and 15-18, and that the rejections of claims 12 and 14-18 may thus be properly withdrawn.

The Office Action states that claims 11, 13 and 19-22 stand finally rejected under 35 USC §103(a) as being unpatentable over Bernard et al. (US Patent 5,274,856) in view of Schramm (DE 29800816). In a phone call with the applicant's representative on May 30, 2007, the Examiner stated that claim 14 should also have been included in this rejection.

Independent claim 19 is drawn to a showering device comprising: (a) a housing in the form of a hand-grip having an inlet side and an outlet side, wherein the inlet side and the outlet side enclose an angle between about 120° and 150°; (b) a shut-off valve located in proximity to the inlet side of the housing; (c) a housing closure located on the outlet side of the housing; and (d) an insertion rinsing tube having an inlet side and an outlet side, wherein the insertion rinsing tube passes through the housing closure and is held in a bore in the housing, and wherein the inlet side of the insertion rinsing tube and the outlet side of the insertion rinsing tube enclose an angle of about 90°.

The Examiner asserts that Bernard et al. teach a showering device with a housing hand-grip body at 48 and with a valve being seen at 38, although not a shut-off valve. The Examiner also states that "the enclosure angle of line 3 is seen above the reference numeral 158" (applicant assumes that this refers to line 3 of claim 19, which recites that the angle between the inlet side of the housing and the outlet side of the housing of between 120 - 150 degrees), and that the rinsing tube is seen connected to the end of tube 50. With regards to claims 11, 13 and 20-21, the Examiner states that "the axis of 24 and 26, and that of the inlet from 36 possess the angular orientations claimed here." The Examiner further states that Schramm teaches a removable rinsing tube and that it would have been obvious to provide for the valve of Bernard et al. to possess a shut-off feature as taught by the valve of Schramm.

Bernard et al. teach a portable hygienic device comprising an elongated body 20 with a nozzle carrying end 22 which communicates with a cannula 24 via a flexible nipple 26, wherein the body 20 comprises a main body portion 48. It is submitted that cannula 24 approximates to the insertion tube recited in the present claims. As illustrated in Figs. 12-16 and stated at col. 7,

Serial no. 10/749,447

Attachment to Pre-Appeal Brief Request for Review

lines 21-25, of Bernard et al. "the upper end of the nipple 26 has external threads for removable threaded engagement with the internal threads 186 at the lower end of the cannula 24." Thus Bernard et al. do not teach an insertion rinsing tube that is held in a bore in the housing as recited in independent claims 14 and 19.

At col. 4, lines 21-25, Bernard et al. state that "main body portion 48 is extended by a downwardly-directed stem portion 50 and terminated by an upwardly-inclined end portion 52 which carrier the nozzle and the cannula 24". Applicant submits that the angle seen above numeral 158 in Fig. 6 of Bernard et al. is not the angle between the inlet and outlet sides of the housing but is in fact the angle between body portion 48 and stem portion 50, and that neither Bernard et al. nor Schramm teach or suggest a housing wherein the inlet and the outlet side enclose an angle between about 120° and 150°. In addition, neither Bernard et al. nor Schramm teach or suggest an insertion rinsing tube wherein the inlet side and the outlet side enclose an angle of about 90°, as recited in independent claim 14 and dependent claims 11 and 13.

With regard to the Examiner's assertion that it would have been obvious to add a shut-off valve as disclosed in Schramm to the device of Bernard et al., applicant notes that the device of Bernard et al. is provided with a diverter valve 38 that functions to "divert and discharge water directly into the toilet bowl, whenever the apparatus nozzle is not used" (See col. 2, lines 60-65 and col. 4, lines 5-7), together with another diverter valve 34 (shown in Fig. 1) that diverts water from the tubing connecting body 20 to a faucet directly into the sink. It is submitted that the presence of diverter valves 38 and 20 renders the addition of a shut-off valve on body 20 unnecessary, and that one of skill in the art would therefore not have been motivated by the teachings of Schramm to add a shut-off valve to the device of Bernard et al.

Claims 24 and 25 stand finally rejected under 35 USC §103(a) as being unpatentable over Bernard et al. in view of Schramm, as applied to claim 19, and further in view of US patent 4,287,618 to Silver.

The Examiner asserts that Silver teaches the use of a rinsing tube having a rounded end. However, Silver does not overcome the deficiencies of Bernard et al. and Schramm discussed above.

Claim 23 stands finally rejected under 35 USC §103(a) as being unpatentable over Bernard et al. in view of Schramm, as applied to claim 19, and further in view of US Patent

Serial no. 10/749,447

Attachment to Pre-Appeal Brief Request for Review

RECEIVED
CENTRAL FAX CENTER

SEP 17 2007

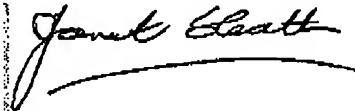
5,056,562 to Pawelsik et al.

Pawelsik et al. teach the use of chromium plated metal in a water faucet environment. However, Pawelsik do not overcome the deficiencies of Bernard et al. and Schramm discussed above.

It is urged that none of the cited references, taken either singly or in combination, would have rendered the presently pending claims obvious to one of skill in the art at the time the invention was made, and that the rejections of the claims under 35 USC §103(a) may thus be properly withdrawn.

A Request for a Two Month Extension of Time extending the deadline for response to the final Office Action to Sunday, September 16, 2007, was filed on September 14, 2007. The accompanying Notice of Appeal is thus being filed within the five month extended deadline for responding to the final Office Action mailed on April 16, 2007.

Respectfully submitted,



Janet Sleath

Registration No. 37,007

Date: September 17, 2007
SPECKMAN LAW GROUP PLLC
20601